

HOUSE JOINT RESOLUTION 102

By Reedy

A RESOLUTION to request the Tennessee Congressional delegation to work with the Tennessee Valley Authority to ensure that its policies are not barriers to broadband deployment.

WHEREAS, the Tennessee Valley Authority (TVA) electric providers are receiving federal and Tennessee Broadband Accessibility broadband grant funds to compete with the private sector broadband providers; and

WHEREAS, TVA electric providers have a monopoly pole attachment service; monopoly status for local pole ownership, combined with exemption from federal and any state pole attachment regulations, has allowed TVA electric providers to charge pole attachment rates that far exceed the rates charged by regulated pole owners; and

WHEREAS, pole attachments have been determined to impact broadband investment; to maximize state broadband grant dollars, TVA electric providers should be required to determine pole attachment rates consistent with the Federal Communications Commission (FCC) formula; and

WHEREAS, the FCC, a sister federal agency to TVA, established a pole attachment rate through an open and transparent process, including comments from all stakeholders; the TVA rate was created in a nontransparent process with engagement from only the utility pole owners. The FCC rate has been challenged in court several times but has, each time, been deemed by the court as an appropriate rate of reimbursement to the pole owner; and

WHEREAS, attaching to TVA poles is vital to rural broadband deployment; cost-efficient broadband deployment is hindered by attachment fees; permits and make-ready provisions add costs and delays to rural broadband; and

WHEREAS, the current exemption from federal and state regulation of pole attachment rates for TVA electric providers allows for significantly inflated pole attachment rates that impact the broadband investment and pricing of its broadband service. These providers have taken advantage of their complete freedom regarding pole attachment rates to create a competitive advantage that demonstrates a disregard for logic and fairness; and

WHEREAS, in Tennessee, private broadband providers pay nearly four to five times more to attach to an electric pole owned by a municipal or electric cooperative regulated by TVA than an electric pole owned by an investor-owned utility, thus hindering private broadband investment in the State; and

WHEREAS, at a time when municipal and nonprofit electric providers are expanding into the broadband business and competing with private enterprise, these electric providers are able to create a competitive advantage by driving the costs of local broadband providers through excessive pole attachment rates; this is accomplished without any state or federal regulatory intervention; and

WHEREAS, with Tennessee having the highest pole attachment rates in the country, undermining the State's goal to connect all Tennesseans, it is vital that the Tennessee Valley Authority, which is dedicated to improving the quality of life in this region, promote investment in broadband by all providers and not impede broadband deployment by private providers; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED TWELFTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that we hereby request the Tennessee Congressional delegation to work with the Tennessee Valley Authority to ensure that its policies are not barriers to broadband deployment.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be transmitted to each member of the Tennessee Congressional delegation.